

Danial Laird
Nevada Bar #11831
dan@lairdlaw.com
Jamal K. Alsaffar, pro hac vice
Texas Bar #24027193
jalsaffar@nationaltriallaw.com
Tom Jacob, pro hac vice
Texas Bar #24069981
tjacob@nationaltriallaw.com
7500 Rialto Blvd
Bldg. Two, Ste. 250
Austin, Texas 78735
Attorneys for the Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BLAKE and JENNA MILLER,
Individually and on Behalf of **C.M.**,
a Minor Child,

Plaintiffs

v.

**UNITED STATES OF
AMERICA,**

Defendant

Case Number

2:19-cv-01293-APG-VCF

**UNOPPOSED AMENDED
MOTION TO APPOINT
GUARDIAN AD LITEM**

1 Plaintiffs request the Court appoint Chip Evans, Evans & Herlihy Law
2 Firm, 4407 Bee Caves Rd., Suite 611, Austin, TX 78746 as guardian ad litem
3 for minor child C.M., for the limited purpose of reviewing a settlement agree-
4 ment affecting the resolution of this case and ensuring no conflict of interest
5 exists.

BACKGROUND

This is a medical malpractice case. It is alleged that C.M. suffered severe and irreversible injury during labor and delivery at Mike O'Callaghan Federal Medical Center. His parents, Blake and Jenna Miller, filed this lawsuit individually and on behalf of C.M.

The Parties to this lawsuit reached a proposed settlement that requires the Court's approval prior to review and decision by the Attorney General or his designee. Because C.M. is a minor child, Plaintiffs request that the Court appoint a guardian ad litem to protect the interests of C.M. for the limited purpose of reviewing the settlement agreement and determining that this settlement is in C.M.'s best interest.

ANALYSIS

Under Fed. R. Civ. P. 17(c), the Court may appoint a guardian ad litem where the Court believes the appointment to be in the best interest of a minor or disabled individual. *Scannavino v. Fla. Dep't of Corrections*, 242 F.R.D. 662, 666-67 (M.D. Fla. 2007). The Court has "broad discretion to fashion appropriate safeguards to protect the interests of incompetent persons and to decide whether to appoint a guardian ad litem under Rule 17(c)." *J.B. v. Banning Unified Sch. List.*, No. EDCV 18-2134-JGB, 2018 WL 6164312, at *1 (C.D. Cal. Oct. 18, 2018).

Here, both parents are parties. As a term of settlement, the United States requires Plaintiffs to obtain court approval of the settlement. An independent guardian ad litem will help the Court determine whether the settlement is within the best interests of C.M.

1 Plaintiffs request the Court appoint Chip Evans, Evans & Herlihy Law
2 Firm, 4407 Bee Caves Rd., Suite 611, Austin, TX 78746, as an appropriate
3 guardian ad litem for C.M. Plaintiffs currently live in the Killeen, Texas area
4 where they have purchased land and intend to live there permanently. Also,
5 their families live in Texas.

6 Plaintiffs have conferred with the United States, and they do not oppose
7 this appointment. Mr. Evans is a licensed attorney in Texas and has consid-
8 erable experience in serving as guardian for these types of cases. He is also
9 board certified by the Texas Board of Legal Specialization. Given C.M.'s sub-
10 stantial future medical needs in the local area of Texas where C.M. has his
11 permanent residence, it is important to provide a guardian ad litem who un-
12 derstands the availability of local medical care services. Plaintiffs contacted
13 Mr. Evans and he is willing to accept this appointment as guardian ad litem,
14 should the Court approve this motion.

15 CONCLUSION

16 Plaintiffs request that the Court appoint Chip Evans as guardian ad li-
17 tem to review the settlement in the above styled case and report to the Court
18 on his review.

Respectfully Submitted,

/s/ Jamal Alsaffar

JAMAL K. ALSAFFAR, *pro hac vice*

jalsaffar@nationaltriallaw.com

Texas State Bar #24027193

TOM JACOB, *pro hac vice*

tjacob@nationaltriallaw.com

Texas State Bar #24069981

Whitehurst, Harkness, Brees, Cheng,

Alsaffar, Higginbotham, & Jacob

PLLC

7500 Rialto Blvd, Bldg. Two, Ste

250

Austin, TX 78735

(512) 476-4346 (o)

(512) 467-4400 (f)

DANIAL LAIRD

dan@lairdlaw.com

Nevada Bar #11831

Laird Law PLLC

8991 West Flamingo Road, Suite C,

Las Vegas, NV 89147

(702) 202-3091 (o)

Attorneys for the Plaintiff

CERTIFICATE OF CONFERENCE

By my signature above, Plaintiffs have conferred with the Government
and the Government does not oppose this motion.

CERTIFICATE OF SERVICE

By my signature above, I certify that a copy of this pleading, Unopposed Amended Motion to Appoint Guardian ad Litem, has been sent to the following on December 23, 2021 via the Court's CM/ECF notice system.

**Brianna Smith
U.S. Attorney's Office
501 Las Vegas Blvd South
Suite 1100
Las Vegas, NV 89101-
702-388-6533
Brianna.Smith@usdoj.gov**

Attorney for the Defendant

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

**BLAKE and JENNA
MILLER**, Individually and on
Behalf of **C.M.**, a Minor Child,

Plaintiffs

v.

**UNITED STATES OF
AMERICA**,

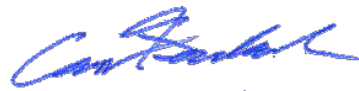
Defendant

Case Number
2:19-cv-01293-APG-VCF

ORDER

1 After reviewing the motion to appoint a guardian ad litem, the Court
2 **ORDERS** Chip Evans, Evans & Herlihy Law Firm, 4407 Bee Caves Rd.,
3 Suite 611, Austin, TX 78746, shall be appointed the Guardian Ad Litem to
4 protect the interest of C.M. and to review the proposed settlement in the
5 above styled case. Within two weeks of the entry of this Order, Mr. Evans will
6 issue his report to the Court.

7
8 IT IS SO ORDERED.

9
10 

11
Cam Ferenbach
United States Magistrate Judge

DATED 12-29-2021